

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

SATYEN CHATTERJEE,

Defendant.

NO. CR15-179TSZ

**UNITED STATES
SUPPLEMENTAL SENTENCING
MEMORANDUM**

I. INTRODUCTION

On February 19, 2015, federal agents arrested defendant Chatterjee in Seattle pursuant to a federal Complaint, and he appeared for his initial appearance. Presentence Investigation Report (“PSR”) ¶ 4. On May 18, 2015, defendant Chatterjee pleaded guilty to an Information charging him with one count of wire fraud in violation of Title 18, United States Code, Section 1343. PSR ¶ 2. The United States filed its sentencing memorandum on December 3, 2015. Dkt. 40. On December 17, 2015, the Court held a hearing and denied defendant Chatterjee’s motion to withdraw his guilty plea. Dkt. 43. On January 11, 2016, the Court granted defendant Chatterjee’s motion to substitute counsel, Dkt. 51, and sentencing was continued from January 20, 2016 to March 23, 2016. Id.

1 During the January 11th hearing, the Court directed the parties to file a joint status
 2 report with an estimate of the amount of time needed by each side at the sentencing
 3 hearing. The Court also directed the parties to file declarations for all potential
 4 sentencing witnesses. On February 11, 2016, the United States filed declarations for five
 5 investors in Metamune, Inc., along with copies of their investment checks, documents,
 6 and e-mails.¹ Dkt. 53.

7 Leading up to the sentencing, the United States and defendant Chatterjee's counsel
 8 engaged in a number of conversations concerning the Metamune investments. As part of
 9 those discussions, the United States again reviewed the victim declarations and the
 10 financial transactions showing what defendant Chatterjee did with the purported
 11 Metamune investments. Based upon this review, the United States continues to believe
 12 that certain aspects of defendant Chatterjee's conduct involving the Metamune
 13 investments was fraudulent. As discussed more fully below, the United States is limiting
 14 its request for restitution to three Metamune victims based upon Chatterjee's
 15 representations to the investors and the use of their funds. Specifically, the United States
 16 believes defendant Chatterjee acted fraudulently in connection with their Metamune
 17 investments by representing he would use their funds for Metamune's business, but
 18 instead used them to repay other investors in Ponzi-scheme fashion.

19 It appears, however, that defendant Chatterjee is continuing to assert that he did
 20 not engage in any fraudulent conduct relating to the Metamune investments.² In his plea
 21 agreement, defendant Chatterjee admitted that he used a substantial portion of the money
 22 he raised from Metamune investors to repay prior investors and for personal expenses.

24 ¹ Those investors included Indrajit Sur (Dkt. 53-1), Mohan Shah (Dkt. 53-2), Parantap Lahiri (Dkt. 53-3), Pritam De
 25 (Dkt. 53-4), and Sudip Gorakshakar (Dkt. 53-5). As set forth below, however, the United States is now seeking
 restitution only for Shah, Lahiri, and De concerning their Metamune investments.

26 ² Based upon the facts admitted in the Plea Agreement and this Court's direction in the January 11th hearing that
 27 those issues are resolved, the Court's determination on the issue of the Metamune investments will not affect
 defendant Chatterjee's advisory guideline calculation. The guidelines call for a 14-level enhancement whenever the
 28 loss is between \$550,000 and \$1,500,000. The losses to "fixed investment" investors and to the "mutual fund"
 investor (A.G.), total \$577,461.

1 | Plea Agreement ¶ 8n. In his September 15, 2015 letter objecting to the PSR, however,
 2 | defendant Chatterjee argues that because he sold Metamune investors “part of his
 3 | interest” in the company, he was “free to use those proceeds as he pleased.” Defendant
 4 | Chatterjee also asserts that Metamune investors were “not victims of fraud” and are thus
 5 | not entitled to any restitution.

6 | **II. FACTUAL BACKGROUND**

7 | Since at least 2011, defendant Chatterjee solicited investments in his dietary
 8 | supplement business, which he later incorporated as Metamune, Inc. in March 2012.
 9 | PSR ¶ 15; Plea Agreement ¶ 8m. Defendant Chatterjee solicited some of his advisory
 10 | clients (including Parantap Lahiri and Mohan Shah) and members of a Bengali non-profit
 11 | organization for which he had served as Vice President and President (including Parantap
 12 | Lahiri and Pritam De). Id. Between February 2012 and June 2014, defendant Chatterjee
 13 | raised approximately \$231,100 from Metamune investors and deposited most of the funds
 14 | he raised into an account in the name of Metamune.³

15 | In its previously-filed Sentencing Memorandum, the United States argued that
 16 | defendant Chatterjee should pay restitution to all Metamune investors. In several
 17 | instances, after depositing investor funds into the Metamune account, defendant
 18 | Chatterjee transferred a significant portion of the funds to his personal account or to his
 19 | advisory account (Strategic Capital Management (“SCM”)), and then used the funds to
 20 | repay other investors that he had previously defrauded.⁴ As outlined in their declarations,
 21 | most of the investors have indicated that they would not have invested with defendant
 22 | Chatterjee if he had told them the truth about how he would use their funds.

23 |
 24 |
 25 | ³ Prior to opening a bank account for Metamune in May 2012, defendant Chatterjee also deposited funds from
 26 | Metamune investors into his advisory account for Strategic Capital Management (“SCM”) and into his personal
 27 | bank account.

28 | ⁴ Bank records show that between May and December 2012, defendant Chatterjee transferred more than \$75,000
 from the Metamune bank account to his personal account. Leading up to sentencing, Chatterjee provided the United
 States with a Form 1099 asserting that he earned \$18,000 in compensation from Metamune in 2012.

The United States recommends that the Court order defendant Chatterjee to repay a total of \$70,000 in restitution to three of the five Metamune investors as that is the amount defendant Chatterjee fraudulently used to repay prior investors.⁵ A summary of those investments are included below in the following table:

Investor Initials	Investment Date(s)	Total Invested	Restitution Amount
Mohan Shah	7/20/12	\$20,000	\$5,000 paid to investor P.S.
Pritam De and Sarmistha De	9/11/12	\$50,000	\$5,000 paid to investor S.D.
Parantap Lahiri	2/11/12	\$50,000	\$50,000 paid to investors A.G. and S.D. ⁶
Parantap Lahiri	5/1/12 and 5/10/12	\$41,100	\$10,000 paid to investors S.D. and P.D.
Total		\$161,100	\$70,000

A. Mohan Shah

Mohan Shah (“Shah”) first met defendant Chatterjee through his church, and later became an advisory client. Dkt. 53-2, pg. 1 ¶¶ 1-2. On July 20, 2012, Shah wrote three checks to Metamune Inc. in the amount of \$6,000, \$7,000, and \$7,000 (\$20,000 total). Dkt. 53-2, pg. 4-6. Defendant Chatterjee did not provide Shah with documents showing his investment. Dkt. 53-2, pg. 2, ¶ 4. Defendant Chatterjee stated that Shah’s funds would be used for Metamune purposes. Dkt. 53-2, pg. 2, ¶ 5. The memo line of each of

⁵ This approach excludes losses for investors Indrajit Sur (who lost \$10,000, see Dkt. 53-1) and Sudip Gorakshakar (who lost \$25,000, see Dkt. 53-5), whose funds were not used to repay other investors. This approach also excludes several of the Metamune investments made by investor Parantap Lahiri.

⁶ As described below, defendant Chatterjee repaid investors A.G. and S.D. a total of \$53,133, using \$50,000 from P.L. and \$20,000 from investor S.B., a victim of defendant Chatterjee’s “fixed” investment scheme. P.L.’s investment funds were commingled in the SCM account with funds from S.B.

1 M.S.'s checks states "pre-IPO." Dkt. 53-2, pg. 4-6. On July 20, 2012, defendant
 2 Chatterjee deposited Shah's checks into the Metamune account. Exhibit 1. Prior to the
 3 deposit, the account had a balance of \$3,450.79. Id. On July 25, 2012, defendant
 4 Chatterjee transferred \$5,000 to his personal account. Exhibit 2 (see transfer to Checking
 5 xxxxxx8765). Prior to the deposit, defendant Chatterjee's personal account had a balance
 6 of \$396.50. That same day, \$5,000 was withdrawn from defendant Chatterjee's personal
 7 account for the payment of a check to investor P.S., a victim of his "fixed" investment
 8 scheme. Exhibits 3 and 4. See also Complaint (Dkt. 1), pg. 9, ¶ 37-38, 40 (describing
 9 P.S.'s earlier investments).

10 **B. Pritam and Sarmistha De**

11 On September 11, 2012, Pritam De ("De") and his wife Sarmistha De wrote a
 12 \$50,000 check made payable to Metamune. Dkt. 53-4, pg. 4. Defendant Chatterjee told
 13 De that his funds would be used for Metamune purposes, including making additional
 14 products, and for sales and marketing. Dkt. 53-2, pg. 2 ¶ 3. De stated that he would not
 15 have invested if his funds went towards defendant Chatterjee's personal expenses or to
 16 pay back prior investors. Id. On September 14, 2012, defendant Chatterjee deposited
 17 De's check into the Metamune account, which had a prior balance of \$3,683.81. Exhibit
 18 5. On September 14, 2012, defendant Chatterjee transferred \$1,000 to his personal
 19 account. Id. Prior to the deposit, defendant Chatterjee's personal account had a balance
 20 of \$395.89. On September 17, 2012, defendant Chatterjee transferred an additional
 21 \$45,000 to his personal account, and then transferred \$40,000 to the SCM account at
 22 E*Trade Bank. Id. and Exhibit 6. On September 18, 2012, \$5,000 was withdrawn out of
 23 defendant Chatterjee's personal account for a check paid to S.D., a victim of defendant of
 24 his "fixed" investments scheme. Exhibit 7 and 8. See also Complaint (Dkt. 1), pg. 10-
 25 11, ¶ 41-42 (describing S.D.'s earlier investments).

26 **C. Parantap Lahiri**

27 Parantap Lahiri ("Lahiri"), one of defendant Chatterjee's advisory clients, made
 28 several investments with him, including \$30,000 in fixed investments and \$126,100 in

1 Metamune. Dkt. 53-3 ¶ 1. Lahiri stated that he never authorized defendant Chatterjee to
2 use his funds for personal expenses or to pay back other investors. Dkt. 53-3, pg. 2 ¶ 7.
3 The United States is recommending that defendant Chatterjee pay Lahiri a total of
4 \$90,000 in restitution. This total includes \$30,000 for his “fixed” investments losses and
5 \$60,000 for the portion of his Metamune investments that were used to repay other
6 investors, as described below.

7 On February 11, 2012, Lahiri wrote a \$50,000 check to SCM, with the words
8 “Supplement Project” written in the memo line. Dkt. 53-3, pg. 5. On February 13, 2012,
9 Lahiri’s funds were deposited into the SCM account. Exhibit 9. Prior to the deposit, the
10 account had a balance of \$10,545.53. Days earlier, on February 8, 2012, defendant
11 Chatterjee deposited a \$20,000 check from another advisory client, S.B. Exhibit 10.
12 Defendant Chatterjee falsely represented to S.B. that his funds would be “mainly invested
13 in highly rated bonds.” Dkt. 40-1, pg. 2. The day after depositing Lahiri’s funds
14 (February 14), defendant Chatterjee wrote two checks to investor A.G. for \$41,058 and
15 \$2,075 (a total of \$43,133). See Exhibit 9 and Exhibit 11. A.G. had earlier invested
16 \$500,000 in a fictitious “mutual fund” that defendant Chatterjee falsely claimed to be
17 starting. See Plea Agreement Dkt. 23, pg. 5 ¶ f. On February 24, defendant Chatterjee
18 paid \$10,000 to investor S.D., a victim of his fixed investment scheme. Exhibit 12.

19 In May 2012, Lahiri invested an additional \$41,100 in Metamune. P.L. wrote two
20 checks in the amount of \$35,000 and \$6,100 that were made out to defendant Chatterjee.
21 Dkt. 53-3, pg. 7 and 9. On May 10, 2012, defendant Chatterjee deposited Lahiri’s funds
22 into his personal account, which had a prior balance of \$356.97. Exhibit 13. That day,
23 \$20,000 was withdrawn through a check made out to SCM that was deposited into the
24 firm’s E*Trade brokerage account. Exhibit 14. On May 11, \$5,000 was withdrawn and
25 paid to investor S.D. Exhibit 15. Defendant Chatterjee also wrote a \$5,000 check to
26 investor P.D., a victim of his fixed investment scheme. Exhibit 16. See also Complaint
27 (Dkt. 1), pg. 11-12, ¶ 43-44 (describing P.D.’s earlier investments).

CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s).

s/Jenny Fingles
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